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OFFICE OF THE MASSACHUSETTS ATTORNEY GENERAL

CHILD LABOR TASK FORCE EXECUTIVE REPORT

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ATTORNEY GENERAL
SCOTT HARSHBARGER

Spring, 1997



A Message From... ATTORNEY GENERAL SCOTT HARSHBARGER

Spring 1997

Dear Friends and Colleagues:



I am pleased to issue the "Child Labor Task Force Executive Report." This report details the findings of the Task Force that I convened last fall to examine and propose revisions to the laws that regulate the employment of minors in the Commonwealth. The laws in this area have not undergone any substantive changes in at least a half a century. Yet the world in which our children learn and work has changed dramatically during that period. I have been deeply concerned that the existing child labor statutes my office is now responsible for enforcing do not adequately address the current best interests of minors or fully protect their safety and welfare in the workplace.

The diverse and distinguished group of experts who volunteered to serve on the Task Force represent business, labor, education and public administration. The participants reached consensus on most of the issues of concern. In those cases where they did not reach complete agreement, we decided on the path that best represented the majority opinion. Following extensive discussions with the Task Force members, my office drafted legislation that reflects the realities of a state approaching the 21st century. While the original child labor laws were enacted to protect young workers who had dropped out of the educational system, today most working minors are full-time students who need to balance the demands of school, work and extra-curricular activities. As such, we have proposed a comprehensive redesign that offers realistic, modern protections for minors, their parents and their employers.

It is my hope that this report will provide useful background for citizens of the Commonwealth who wish to optimize both current and future opportunities for our children. I look forward to working with all segments of the community towards that critical goal.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Harshbarger".

EXECUTIVE REPORT

OFFICE OF THE MASSACHUSETTS ATTORNEY GENERAL CHILD LABOR TASK FORCE

EXECUTIVE REPORT

INTRODUCTION

In September 1996, Massachusetts Attorney General Scott Harshbarger, whose Fair Labor and Business Practices Division is charged with the responsibility for enforcement of the Commonwealth's child labor laws, convened a Task Force to review those laws and to recommend changes that would "reflect the reality of a state approaching the 21st century."¹ Despite the constantly evolving nature of technology, the economy and educational standards, the child labor laws have not been substantially altered in Massachusetts for more than 60 years.

The challenge of updating the laws did not depend solely upon a review of the existing statutes, but required a careful consideration of the employment, education and well-being of young workers in general. The following information helped to shape our analysis of the issues:

- The United States ranks highest among industrialized nations for the percentage of high school students who work during the school year: 65%, compared with 2% in Japan and 20% in Sweden.² In Massachusetts 71% of all 16- and 17-year olds work an average of 22 hours a week, 28 weeks a year.³ These statistics raise concern in light of the fundamental premise that youth's most important "job" is getting an education.
- When the Commonwealth's original child labor laws were enacted in the 19th and early 20th centuries, they were generally intended to protect young workers who had dropped out of the educational system in order to earn a living. Since that time, however, the compulsory education age and

¹ News release from the Office of the Attorney General: "Harshbarger Forms Child Labor Task Force to Streamline & Update Antiquated Labor Laws"

² Washington State Child Labor Advisory Committee Final Report, February 19, 1992

³ Brooks, D.R. and Davis, L.K., "Work-Related Injuries to Massachusetts Teens, 1987-1990", American Journal of Industrial Medicine 29:153-160 (1996)

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the number of hours of required schooling for Massachusetts students have both increased. Today, most working minors are full-time students who would benefit from an updated regulatory framework to help them balance school, work and other activities essential for developing good citizenship qualities. Massachusetts laws still permit 14-17 year olds to work as many as 48 hours a week while school is in session.⁴

- For the average middle school and high school student, approximately 30 hours per week are spent in the classroom⁵ and many more hours are required for homework. Extra-curricular and civic activities provide teenagers with valuable opportunities to develop critical skills for becoming balanced and productive adults. Adding a job into a student's schedule either will replace homework, extra-curricular and civic activities or will add to the total number of hours to which the student is already committed each week.
- Not only can paid employment provide young workers money for expenses and possibly for college, but it can act as a vehicle for improving self-confidence, and for developing skills, such as time budgeting, interpersonal communication, and money management. The extent of the benefit achieved by combining work and school is dependent upon the number of hours a student works. Working up to 10 hours per week has been associated with improved academic performance; working more than 20 hours per week has been associated with lower grades and increased use of drugs and alcohol.⁶
- Teenagers whose activities include only work and school, and who don't participate in extra-curricular and civic activities, are likely to define themselves only in terms of their work once they have left school. Students who are

⁴ Massachusetts General Laws, Chapter 149, Sections 65 and 66

⁵ Washington State Child Labor Advisory Committee Final Report, February 19, 1992

⁶ Testimony presented on October 31, 1996 from educators who served on the Attorney General's Child Labor Task Force.

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encouraged towards early involvement in a broader range of activities are more likely to develop a strong sense of civic responsibility as adults.

- Occupational injuries to young workers constitute a significant public health concern. Minors aged 16 and 17 are injured on the job at a higher rate than adult workers. From 1987 through 1990, the Massachusetts Department of Industrial Accidents received 2,551 reports of serious injuries to workers aged 14 through 17.⁷ These claims reflect only those injuries involving five or more lost work days, amputation, scarring or permanent loss of function. Many more such injuries are never recorded, and very few of the less severe injuries are reported at all.
- The consistently high occupational injury rate among workers under the age of 18 may reflect the significant changes in the nature of work in which contemporary youth are typically employed. When the child labor laws originally were passed, most minors worked in manufacturing and agriculture, whereas today their jobs are heavily concentrated in the service and retail sectors. The health and safety provisions in the existing laws do not address the hazards more typical in today's work environments.
- In order to be viable, US businesses require a substantial pool of qualified and educated workers to keep up with increasingly complex technologies. However, many large employers actively seek high school students to fill unskilled part-time jobs, offering low wages and few opportunities for advancement. If young workers remain in such jobs and fail to pursue further education or training, they will be less likely and less able to ultimately fill the more skilled positions.
- Employment is not only a common phenomenon for today's youth, it is often a consideration essential for their subsistence. Approximately 20-30% of working teens are employed because of economic need. This reality underscores

⁷ Brooks, D.R. and Davis, L.K., "Work-Related Injuries to Massachusetts Teens, 1987-1990", American Journal of Industrial Medicine 29:153-160 (1996)

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the necessity to address both the short-term and long-terms concerns of all young workers.

The challenge to the Child Labor Task Force was to weigh the continuing viability of the current laws, and to consider alternative legislative and regulatory approaches that would offer the greatest protections while providing balanced and meaningful opportunities for today's youth.

THE CHILD LABOR TASK FORCE

The Child Labor Task Force was composed of representatives from education, labor, business, public agencies and the state legislature. In addition, many concerned parties came forward to volunteer as technical advisors. More than twenty individuals, identified in the attached roster, participated in the effort. We appreciate their commitment and assistance.

The defined goal of the Task Force was to begin an evolving and dynamic process - one where our initial proposals to amend the existing laws would be thoughtfully conceived and based on recent experiences in other states. Subsequent proposals would be based on the Commonwealth's actual experience following the implementation of the initial changes. Therefore, the proposed amendments do not reflect a view that the laws will need no further revision for the next 60 years. Rather, the task force process enabled us to take a long range view of the issues presented while suggesting specific, immediate steps to be taken which could then be evaluated and further refined over time.

The Task Force was asked to advise the Attorney General's Office on three focused issues:

- 1) The hours minors under the age of 18 are permitted to work.**
- 2) The process for minors to obtain permits, as it involves the the working minor and the parent(s) or legal guardian(s) of the minor; the employer; and the issuing agents within the relevant educational institutions.**

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3) Restrictions on the occupations and tasks performed by minors under the age of 18.

The Task Force met formally on two occasions: October 1, 1996 and October 31, 1996. Extensive written materials were provided to all participants for their review. At the first meeting, participants chose one or more of the three topics for further analysis. Between the two meetings, the participants were contacted by telephone to review their opinions, concerns and recommendations relative to their chosen topics.

At the final meeting the results of the telephone conferences were reported to the entire Task Force and each topic was opened for further consideration. Ultimately, the discussions were not limited to the three main topics, but also covered pre-employment training for students; school-to-work initiatives; employer permitting; enforcement; penalties; and waivers of the child labor laws. Smaller groups have formed to continue consideration of some of these issues.

The Task Force achieved consensus on many issues. For those matters on which full agreement was not reached, all views were considered. The Office of the Attorney General prepared statutory language that appeared to best represent the majority position. A draft of the proposed legislation was circulated to all participants for their comments⁸. Following receipt of the comments from all responding parties, final changes were made to the proposal which was then submitted by the Attorney General to the State legislature in December, 1996 for consideration during the 1997 legislative session.

⁸ Following the circulation of the draft, we met with three members of the Task Force, at their request, and discussed their comments on the draft proposal.

SUMMARY OF PROPOSED AMENDMENTS

HOURS OF WORK

PROPOSED AMENDMENTS FOR 14- AND 15-YEARS OLDS

Massachusetts law currently permits 14- and 15-year olds to work up to eight hours per day and 48 hours per week, throughout the year. Federal law restricts these younger working minors to a maximum of three hours per day and 18 hours per week during the school year. Therefore, while an employer may be in compliance with the state law, he or she might be in violation of the federal law.

A comprehensive national survey of 53 states and districts revealed that 43 of those jurisdictions are more restrictive than Massachusetts in this area of child labor law. The Task Force proposed that Massachusetts amend its statutory provisions for this age group in order to be consistent with the federal law, which encourages a better balance between school and work.

When school is not in session, minors under the age of 16 would be permitted to work up to eight hours per day and 40 hours per week, as is permitted under current federal law. Federal law permits 14- and 15-year olds to work the permitted number of hours listed above as long as their employment is restricted to non-school hours between 7:00 a.m. and 7:00 p.m.. Massachusetts currently permits work during non-school hours between 6:30 a.m. and 7:00 p.m.⁹ The Task Force proposed that Massachusetts also amend this section of its law to be consistent with the federal requirement.

During the summer, from July 1st through Labor Day, minors under the age of 16 will continue to be permitted to work until 9:00 p.m. The federal law permits 14- and 15-year olds to work until 9 p.m. beginning on June 1st. Task Force members discussed the possibility of extending the late hour limit until 9:00 p.m. as soon as the school year ends, but the Attorney General's Office determined that practical enforcement of this provision would be unduly difficult because of inconsistent school closing dates.

⁹ Massachusetts General Laws, Chapter 149, Section 65

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The legislation further proposes limiting employees in this age group to working five days per week. Currently, such minors are permitted to work up to six days per week. None of the Task Force members raised objections to the five-day restriction.

The Task Force reached consensus on proposing the revision of the current requirement that the hours worked in a single day must be worked within nine consecutive hours. Eliminating this requirement would permit minors to work split shifts as long as they do not exceed the total number of hours permitted for that particular day. The Task Force believes that this change will increase scheduling flexibility to the advantage of both employees and employers.

The following table represents a comparison of the current federal law, the current Massachusetts law, and the proposed legislation governing the hours 14- and 15-year olds are permitted to work.

FEDERAL	MASSACHUSETTS	PROPOSED
* between 7 am and 7 pm	6:30 am to 7 pm	7 am to 7 pm
* between 7 am and 9 pm (June 1-Labor Day)	6:30 am to 9 pm (July 1-Labor Day)	7 am to 9 pm (July 1-Labor Day)
* 3 hours/day (school days)	8 hours/day (school days)	3 hours/day (school days)
* 8 hours/day (non-school days)	8 hours/day (non-school days)	8 hours/day (non-school days)
* 18 hours/week (school weeks)	48 hours/week (school weeks)	18 hours/week (school weeks)
* 40 hours/week (non-school weeks)	48 hours/week (non-school weeks)	40 hours/week (non-school weeks)
* no restriction (on days/week)	6 days/week	5 days/week

PROPOSED AMENDMENTS FOR 16- AND 17-YEAR OLDS

Federal laws currently do not regulate the hours worked by 16- and 17-year olds. This allows Massachusetts more flexibility in establishing its own labor standards for this age group. All members of the Task Force acknowledged that the hours Massachusetts currently permits for workers in this age group are excessive during the school year. The discussion focused on the effects of setting new limits with respect both to working youth and to the businesses that employ them.

When the current applicable restrictions were first promulgated, they were largely directed at a workforce of 16- and 17-year olds who no longer attended school and did not expect to return to school. Today, most employees in this age group also are full-time students. Additionally, the previously required school hours were shorter, enabling the working minors who did continue to attend school to more easily accommodate longer hours on the job.

The Attorney General's proposed legislation limits work for this age group to 28 hours per week while school is in session. School is not considered to be in session during the summer or in any week when no classes are held. The current law permits minors to work up to 48 hours per week during the school year. Very few minors are actually able to work that many hours while attending school full-time.

Members of the Task Force discussed several studies that associate working more than 20 hours per week during the school year with reduced academic performance and increased antisocial behaviors. As a result, our discussion focused on identifying the maximum number of hours that would accommodate both the academic and economic needs of the minors and would not unreasonably impact the needs of the potential employers of such minors. In general, the educators favored reducing the permissible number of hours to 20. The employers, on the other hand, expressed concern that restricting minors to fewer than 30 hours would cause hardship to their businesses and to the minors who currently work more than 30 hours per week and depend upon their income to meet necessary expenses. A final compromise of 28 hours per week was included in the proposed legislation.

The Attorney General's legislation further proposes limiting the number of hours 16- and 17-year olds may work on school days from nine, which is currently permitted, to four. The legislation would permit these minors to work up to eight hours on non-school days and up to nine hours a day during non-school (vacation) weeks.

The Task Force discussed the costs and benefits of reducing the number of work hours permitted on school days. One of the employers argued that a four-hour limit would create difficulties because their collective bargaining agreement calls for a minimum of four hours per shift.¹⁰ Some of the employer representatives also argued that providing employment to minors can be beneficial in reducing idleness which they felt could lead to loitering, violence and substance abuse. The large majority of the Task Force members, however, felt that four hours was a reasonable limit on school days.

Massachusetts law currently permits 16- and 17-year olds to work during non-school hours between 6:00 a.m. and 10:00 p.m. throughout the year.¹¹ The proposal would extend the limit to 11:00 p.m. on nights not followed by a school day. While the members did not reach consensus, they expressed less concern about how late this age group worked on non-school nights than about the total number of hours they worked in a day or in a week while school was in session. The business representatives reported difficulty in complying with the existing law in retail stores that now normally close at 10:00 p.m.

The following table represents a comparison of the current federal law, the current Massachusetts law and the proposed legislation governing the hours 16- and 17-year olds are permitted to work.

¹⁰ Stop and Shop's union contract requires that some of their employees be paid for a minimum of four hours per shift.

¹¹ Massachusetts General Laws, Chapter 149, Section 66

WORK HOURS FOR 16- And 17- YEAR OLDS

FEDERAL	MASSACHUSETTS	PROPOSED
* no restrictions	6 am to 10 pm (on nights followed by a school day)	6 am to 10 pm+
* no restrictions	6 am to 10 pm* (on nights not followed by a school day)	6 am to 11 pm
* no restrictions	9 hours/day (school days)	4 hours/day (school days)
* no restrictions	9 hours/day (on non-school days while school is in session)	8 hours/day
* no restrictions	9 hours/day (while school is not in session)	9 hours/day
* no restrictions	48 hours/week (while school is in session)	28 hours/week
* no restrictions	48 hours/week (while school is not in session)	48 hours/week
* no restrictions	6 days/week	5 days/week (during school weeks)

- + Minors employed in educational vocational or cooperative health care programs may work until 11 pm on school nights.
* Minors employed in restaurants and racetracks are permitted to work until midnight on nights not followed by a school day. These exemptions are contained within the existing law; they were not proposed by the Office of the Attorney General.

The Task Force discussed the issue of special needs students who may have to work while they are still in school. These laws permit students to remain in high school until they graduate or until they are 22 years old. While they are not protected by the child labor laws after they reach the age of 18, they still must

balance their school work, their employment and their home, civic and social lives. To address this issue, the legislation filed by the Attorney General proposes a clause to prohibit employers from requiring any full-time secondary school student over the age of 18 to work more hours than those permitted for minors, unless the student and his or her parent or legal guardian provide prior written consent.

MINORITY POSITION ON PROPOSED AMENDMENTS TO THE HOURS PROVISIONS

Following the release of the first draft of the proposed legislation, three employer representatives¹² expressed concern about the details of some of the proposals and requested that their particular views be expressed independently in this report. With respect to the amendments to the hours provisions, they felt that the proposed restrictions would place an undue burden on the businesses they represent. Their objections focused exclusively on the restrictions proposed for 16- and 17-year olds. They expressly concurred with the hours restrictions proposed for 14- and 15-year olds.

If minors were limited to four hours per day on school days the employers claimed that they would have to hire additional adult staff to work the longer and later hours or that minors would have to be replaced entirely. The employers rely heavily on minors for work in retail establishments, particularly in supermarkets; they claim that there is an acute labor shortage in Massachusetts, and that replacing minors would result in severe staffing problems for their businesses and in limited opportunities for the minors.

They expressed particular concern about the impact on business if they are not able to employ minors for more than four hours on Fridays and the Wednesday before Thanksgiving. Many students work on Saturdays and the Attorney General's Office determined that these students should be no less prepared to meet the

¹² The representatives included one each from the Retailers' Association of Massachusetts; Stop and Shop; and Murphy, Hesse, Toomey and Lehane, a law firm representing employers. At the request of the company's representative, the letter submitted by Stop and Shop is appended.

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demands of a full work day than they are to meet the demands of a full day of school and extra-curricular activities.

The Task Force examined the potential impact of permitting minors to work more than four hours per day on school days and determined that continuing to allow up to nine hours per day could impose a schedule on minors that would impair them academically and reduce their time to participate in sports, other extracurricular activities, and family, social and civic activities, which are vital to their development and growth. For example, a student who attends school from 8:00 a.m. until 2:30 p.m., goes home and then leaves shortly thereafter to go to work, who works only six hours after school (not nine), and who finishes her or his job at 10:00 p.m., would not have time to do homework or participate in other activities during that day.

Laboratory studies indicate that teenagers, at least up to the age of 18, require nine hours of sleep per night for optimal performance during the day, particularly if they are working students.¹³ A four-hour limit on school days would allow two or three hours for homework, extra-curricular activities, or other social and community activities.

The Attorney General's Office recognizes that working after school, on weekends and on holidays is the norm for most teenagers in the United States. By the time they graduate, 80% of all high school students have held jobs.¹⁴ The question we asked was not whether work was beneficial, but how best to promote a healthy introduction to working life. We determined that, from a legislative standpoint, this could be accomplished in part by limiting the number of hours minors are permitted to work. Work can provide important and meaningful opportunities for students, but working excessive hours can negate the benefits.

¹³ Carskadon, M.A. "Patterns of sleep and sleepiness in adolescents", *Pediatrician* 17:5-12 (1990)

¹⁴ Steinberg, L. and Cauffman, E. The impact of employment on adolescent development. In, Vasta, R. (Ed), *Annals of Child Development* (11) (1995)

In addition, it has been shown that thousands of young workers are injured each year; combining long hours at school with long hours at work is likely to result in fatigue that may contribute to the high injury rates and to a lowered capacity for productive learning at school.

For these reasons, the majority of the Task Force and the Attorney General's Office decided to maintain the proposal to limit the hours of work to four hours on school days, even those followed by a weekend or holiday, and to keep the limit on late work to 10:00 p.m. on school nights.

The employers' representatives also requested that minors be permitted to work beyond 10:00 p.m. on non-school nights. Currently, minors must complete work by 10:00 p.m. unless they are employed by restaurants or race tracks, in which case they are permitted to work until midnight on nights not followed by a school day. These exemptions were obtained through special legislation proposed at the request of these two particular industries and were not supported by the majority of the Task Force. Most of the members felt that these two exemptions do not, and should not, represent the standard by which other industries are to be compared. While the immediate agenda of the Task Force did not include this issue, several members expressed interest in proposing legislation to revoke the exemptions for restaurants and race tracks.

The Stop and Shop representative argued that supermarkets are "the functional equivalent of restaurants" and that their "stores are well lit, safe and secure ... smoke-free, do not serve alcohol and do not permit gambling..." They offered these as "compelling reasons to provide Stop and Shop and other supermarkets with the same relief granted to restaurants and ... racetracks."

The Task Force members were mixed in their opinions about the limit to late hours. The final compromise decision made by the Attorney General's Office was to propose that 16- and 17-year olds be permitted to work until 11 p.m. on nights not followed by a school day.

PERMITTING PROCESS

The Task Force agreed that the employment permit procedures for minors should be streamlined and updated to assure, to the extent possible, the welfare of, and academic opportunities for, working minors. The original process was established to verify that working minors had completed the required level of education to enable them to work. Employment permits, required for 14- and 15-year olds, were issued in order to verify that the minor applying for work had completed her or his mandatory education at a time when children were required to attend school only until the age of 14. Educational certificates, required for 16- and 17-year olds, were intended to verify that the minor applying for work had proficiency in the English language and had completed the sixth grade.¹⁵ These original reasons are now obsolete; however, there are more contemporary justifications for continuing to require permits and certificates for working minors and these justifications need to guide the overall process.

The permitting process protects minors in two ways. The issuing agent, generally the superintendent of schools, is afforded the opportunity to review the work for which the minor has applied and to determine whether or not the work falls within the approved industries or occupations for the age of the minor. In addition, the permits notify employers of the ages of minors working in their establishments so that appropriate working hours and tasks can be assigned. Maintaining permits and certificates on file allows child labor enforcement officials to review the ages of the minors employed and to ensure that their work falls within the scope of the law.

The educators on the Task Force reported that, currently, issuing permits often is merely a perfunctory process because of a shortage of staff and inadequate guidelines. Very few issuing agents have the resources to review and question the occupations or industries in which the minor has been promised employment. Once a permit is issued, the school has very little subsequent

¹⁵ Lumpkin, K.D. and Douglas, D.W. *Child Workers in America*, Ed. Robert M. McBride & Company (1937)

Persons, C.E., Parton, M. and Moses, M. *Labor Laws and Their Enforcement: With Special Reference to Massachusetts*, Ed. Susan M. Kingsbury (1911)

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control to monitor and, if necessary, to help a student who may be having trouble at school because of long work hours or inappropriate work assignments.

The most responsible issuing agents do review the proposed employment and may deny a permit or educational certificate because the work is not allowed by law. However, the current statute does not extend the school's authority to be able to consider the personal needs of 16- and 17-year olds to balance their studies and their work. For this reason, the Attorney General's legislation proposes to give authority to superintendents of schools to specifically consider the welfare of those minors who request permits or educational certificates. In addition, superintendents would have the authority to revoke previously issued certificates or permits when they determine that the welfare of a minor is no longer being appropriately served by his or her employment.

The legislation also proposes standardizing the permitting procedures for all minors under the age of 18 who are full-time students. The present law distinguishes between the treatment of younger minors (14- and 15-year olds) and that of older minors (16- and 17-year olds), thus creating two very different sets of permitting procedures, which can cause confusion and/or error.

Currently, younger minors must obtain a "promise of employment" card from the superintendent of schools. The card must be filled out by the minor's prospective employer, and must include the occupation the minor will perform. The card then must be signed by a physician who has examined the minor before the school can issue the permit. A parent or legal guardian must sign the permit before it is given to the employer.

Older minors must simply obtain a certificate from the school indicating that they have completed the sixth grade. The law does not require a promise of employment describing the work the minor will be doing. As a result, the issuing agent must rely solely on the minor's knowledge and understanding of what the proposed job will entail to determine whether or not the employment is appropriate. No medical examination or parental approval is needed.

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The Attorney General's Office's interviews of medical personnel and other children's advocates indicate that the examinations physicians now perform for work permits are, at best, usually cursory and generally do not include a review of the type of work the minor will be performing. Consequently, the intent of the medical examination - to ensure that minors are fit for their intended work - is not being met.

The Task Force members were divided in their positions on mandatory medical examinations. Some members felt that the examinations required for sports and for employment permits provide the only opportunity many adolescents have for medical evaluation and that even cursory examinations are better than none at all. Other members felt that while medical examinations could serve the general purpose of health promotion, employment permitting may not be the appropriate vehicle for such a program. In addition, they felt that the requirement makes the process of obtaining work permits more difficult and offers no distinct advantage.

Medical examinations were instituted in an era when children over the age of 14 were not required to attend school and many worked full-time under physically demanding conditions. In addition, the public health concerns were more grave at that time. Apart from these considerations, a significant number of minors currently do not have the health care or financial resources to pay for the examinations.

The Task Force generally agreed that, regardless of the final recommendation, there is no justification to require medical examinations for one age group and not the other. Rather than require that a superficial process of questionable medical value be extended to include all minors, we have proposed that the requirement be dropped. To further standardize the process for both age groups, we recommended that all students under the age of 18 secure a signature from their parent or legal guardian to qualify for a permit. Implementing this recommendation would leave the decision about medical examinations to each student's parent or legal guardian.

The permitting process proposed by the Task Force for all minors involves an application that is first signed by the employer, then by the minor's parent or legal guardian, and then brought

to the school's issuing agent. If the agent agrees to issue the permit, the minor would bring the original to the employer and a copy of the permit would be attached to the application and kept on file at the school.

Other permitting issues that were addressed but not included in the proposal for the current legislative session included: awarding local authority to individual schools to design and implement their own permitting criteria; requiring that students be trained and/or tested before being issued employment permits; and requiring that employers apply for permits before being allowed to hire minors.

HAZARDOUS OCCUPATIONS

The Massachusetts child labor laws were enacted to prevent the exploitation of minors through oppressive work schedules and/or hazardous working conditions. While the nature of the work and its related hazards have changed significantly since the child labor laws were first passed, the justification for laws to protect young workers from dangerous work remains unchanged. Minors are generally less able than adults to protect themselves for several reasons: 1) they are less experienced and thus less able to identify hazardous conditions; 2) they may be less willing or able to refuse work that can injure them; 3) they tend to believe that they cannot be injured; 4) they are still maturing and may be physically and psychologically less able to tolerate the rigors of arduous or dangerous work, or work that would not be considered hazardous for adults.

Massachusetts law currently restricts approximately 50 hazardous tasks or occupations for minors. The Attorney General's Office receives numerous requests from schools and employers for interpretations of the statutes with respect to potentially hazardous employment. Some of the statutory restrictions no longer apply in today's workplaces. On the other hand, many clearly hazardous tasks are common in employment now held by minors but not held when the laws were originally written. Consequently, the Task Force recognized that the list of prohibited occupations required updating to reflect the hazards of contemporary work situations for minors.

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Two options were available to modify the current list of restrictions. The Task Force could have proposed additions to the list through the legislation submitted by the Attorney General's Office. Alternatively, the current law authorizes the Attorney General to conduct hearings to determine which occupations may be injurious to minors and to prohibit employment in those occupations through an administrative process. This second option offers the advantage of greater flexibility in being able to remain current with the true and evolving nature of workplaces and working conditions for minors.

The Task Force therefore determined that the best solution was for the Office of the Attorney General to exercise its statutory authority and to hold public hearings across the state. The hearings are scheduled for April 29, May 1, 5 and 8, 1997. Public testimony will be reviewed by the Office and a new list of hazardous occupations will be issued. This process can be repeated as often as is necessary.

Workplace Violence

The Task Force recognized that working alone, particularly at night, can be very hazardous for all workers. Younger workers are especially vulnerable to violence perpetrated upon retail clerks, gas station attendants, and others who work alone. While employees who handle money are most often subject to robberies and assaults, the Task Force acknowledged that applying restrictions only to retail, and not to all solitary employment, would be an artificial division. Therefore, the filed legislation proposes that no minor be permitted to work after 8:00 p.m. unless under the direct and immediate supervision of an adult.

ADDITIONAL TOPICS

In addition to the amendments to the hours and permitting sections of the law discussed by the Task Force, the Attorney General's legislative proposal included issues appearing in earlier legislative proposals on child labor submitted by this Office. These issues are reviewed below. They were included in the proposed legislation which was distributed in draft form for review by all members of the Task Force before being put into final form.

General Duty Clause

The Attorney General's legislation proposes that employers be responsible for maintaining their workplaces free from recognized hazards that may cause death, serious injury or illness. This clause is important in protecting minors where no specific standard or restriction exists but where workplace hazards may cause injury. While the Federal Occupational Safety and Health Administration (OSHA) has a very similar clause, and may preempt such state legislation in private sector workplaces, this clause would be enforceable in the public sector.

Volunteers

The Attorney General's legislation clarifies the applicability of the child labor laws to volunteers. The current restrictions apply to volunteer positions "except those in supervised educational, charitable or other nonprofit organizations." The intent of the proposed language is to prevent employers who want to engage minors in work outside the restrictions of the law from doing so by "hiring" them into volunteer positions.

Enforcement Issues

The Task Force did not initially address enforcement issues; however, prior legislation proposed by the Attorney General provided for the civil enforcement of labor standards, which included, but were not limited to, the child labor laws. The proposal has been refiled by the Attorney General as part of this year's legislative process. The Task Force reviewed the legislation and supported the inclusion of civil sanctions.

The child labor laws currently can be enforced only through the criminal courts. An employer who is alleged to have violated the laws must be criminally convicted in order for the prescribed penalties to apply. The penalties presently assessed for child labor law violations range from a low of only \$2 to a maximum of \$500. Full court proceedings against an employer could cost the Commonwealth thousands of dollars, but the guilty employer might be responsible for a penalty of only \$10 (the lowest fine that could be imposed upon an employer who, for example, permitted a 14-year old to work with hazardous machinery that caused severe injury to the minor. The highest fine for this violation is currently \$50). With these penalty provisions, it is not difficult to understand why infractions of the child labor laws are rarely prosecuted.

The current system severely restricts the ability of the Attorney General's Office to deter violations through reasonable enforcement action. The authority to impose civil penalties would create a streamlined administrative system of enforcement that would not depend solely upon the courts for the resolution of violations. Civil infractions could result in a written warning or citation, or in a fine of up to \$5000 for each separate violation.

In situations where violations are chronic or willful, the Attorney General would retain the authority to criminally prosecute. The legislation proposes increasing the criminal penalties for employers to: \$500 - \$5,000 for hours violations involving 16- and 17-year olds; \$500 - \$2,000 and/or imprisonment for up to two months for hours violations involving 14- and 15 year olds and for violations of hazardous occupations restrictions for all minors; and \$2,000 - \$10,000 and/or imprisonment for up to six months for subsequent offenses.

Discrimination

The Attorney General's Office receives many reports of minors being terminated by employers for refusing to work outside the hours permitted by the law. Consequently, the anti-discrimination provisions for the child labor laws should be strengthened to prohibit employers from retaliating against minors or their parents (or legal guardians) for exercising any rights guaranteed by the Massachusetts child labor laws. Violations of the proposed clause would carry a potential penalty of \$1,000 to \$10,000 and/or imprisonment for not more than six months.

CONCLUSION

Our primary intent in preparing this report was to educate and inform the public about youth employment issues, about the need to update the child labor laws and about the steps that can be taken to ensure that the laws are as effective as possible in creating the best opportunities for our youth.

A further goal, however, was to produce a document that would place the Attorney General's legislative proposals into a context that includes the history of child labor as well as its contemporary reality. We hope that the report will serve to assist future regulators, lawmakers and policy administrators. Because we were unable to locate any official historical record of previous efforts at reforming the child labor laws in Massachusetts, we had no specific documents to help us understand how certain social and economic issues may have influenced earlier legislative processes. This report is therefore intended to minimize that problem for the next generation of committed child labor activists and to provide a baseline for their future consideration and efforts.

**AN ACT RELATIVE TO
THE CHILD LABOR LAWS**



The Commonwealth of Massachusetts

IN THE YEAR ONE THOUSAND NINE HUNDRED AND NINETY- SEVEN

AN ACT

RELATIVE TO THE CHILD LABOR LAWS

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1.

Section 56 of chapter 149, as amended by sections 391 and 392 of chapter 151 of the acts of 1996, is hereby amended by adding to the first paragraph at the end thereof the following:--

Notwithstanding any other provision contained in this paragraph, the limitations in hours of daily and weekly work by minors set forth in sections sixty-five and sixty-seven shall be applicable to all work by minors described herein.

NOTE. — Use ONE side of paper ONLY. DOUBLE SPACE. Insert additional leaves, if necessary.

HOUSE No. 647

SECTION 2. Section 57 of chapter 149, as appearing in the 1994 Official Edition, is hereby amended by striking out said section and inserting in place thereof the following:-

Section 57. Any person who, either for himself or as superintendent, overseer or agent for another, employs any minor in violation of the preceding section, or fails to post or keep posted any notice as required by it, or makes a false report of the stopping of machinery, shall be punished by a fine of not less than five hundred nor more than five thousand dollars. Any parent or guardian who permits a minor under his or her control to be employed in violation of said preceding section shall be punished by a fine of not less than fifty nor more than five hundred dollars.

SECTION 3. Section 60 of said chapter 149, as so appearing, is hereby amended by striking out the fifth paragraph thereof and inserting in place thereof the following:-

This section and section eighty-six shall not be deemed to prohibit minors from voluntarily performing supervised services for an educational, charitable, or other non-profit organization during non-school hours, nor shall this section and section eighty-six be deemed to prohibit children thirteen years of age from voluntarily performing supervised services in a non-profit hospital after regular school hours, and before half past five o'clock in the evening.

SECTION 4. Section 65 of said chapter 149, as so appearing, is hereby amended by striking out said section and inserting in place thereof the following:-

Section 65. No person shall employ a minor under sixteen, or permit him or her to work, in any occupation for which a permit for employment is required, for more than five days in any one week, or more than forty hours in any one week when school is not in session or eighteen hours in any one week when school is in session, or more than eight hours in any non-school day or three hours in any one day when school is in session, or, except as

provided in section sixty-nine, before seven o'clock in the morning, or after seven o'clock in the evening, except from July first through Labor Day, when evening hours shall be extended until nine o'clock in the evening.

SECTION 5. Section 66 of chapter 149, as amended by section 2 of chapter 268 of the acts of 1996, is hereby amended by striking out said section and inserting in place thereof the following:-

Section 66. No person shall employ or permit a minor to work in, about or in connection with any establishment or occupation named in section fifty-six or sixty before six o'clock in the morning, or after ten o'clock in the evening, provided, that minors may be employed in educational vocational or cooperative health care programs until, but not after, eleven o'clock in the evening; and provided further, that minors between the ages of sixteen and eighteen may be employed until eleven o'clock in the evening on days not immediately followed by a school day or in restaurants and race tracks until, but not after, twelve o'clock in the evening on Fridays and Saturdays and during school vacation periods, except on the last day of such vacation period. Any minor under the age of eighteen who is employed after eight o'clock in the evening must be under direct and immediate adult supervision.

SECTION 6. Section 67 of chapter 149, as amended by section 3 of chapter 268 of the acts of 1996, is hereby amended by inserting at the end thereof the following:- Notwithstanding the foregoing, and except as limited by section fifty-six, no person shall employ or otherwise permit a minor between the ages of sixteen and eighteen who is a full-time secondary school student to work more than five days or twenty-eight hours in any one week when school is in session, or more than eight hours in any one non-school day or more than four hours in any one school day during any week in which school is in session. In addition, no employer may require any full-time secondary school student, regardless of the student's age, to work more hours than those set forth herein without the prior written consent of said student and his or her parent or legal guardian.

SECTION 7. Section 74 of chapter 149, as amended by section 395 of chapter 151 of the acts of 1996, is hereby amended by inserting at the end thereof the following new paragraph:-

The attorney general may conduct such community outreach and educational efforts as he or she from time to time deems appropriate. In addition, the attorney general is hereby authorized to publish and disseminate, in such manner as he or she deems appropriate, the names and addresses, along with the nature of the violation, of any employer found to have violated any provision of this chapter pertaining to the employment of minors.

SECTION 8. Section 78 of chapter 149, as appearing in the 1994 Official Edition, is hereby amended by striking out said section and inserting in place thereof the following:-

Section 78. Whoever, by himself or for others, or through agents, servants or foremen, employs, induces or permits any minor to work contrary to any provision of sections sixty to seventy-four, inclusive, shall be punished for a first offense by a fine of not less than five hundred nor more than two thousand dollars or by imprisonment for not more than two months, or both, and for any subsequent offense by a fine of not less than two thousand nor more than ten thousand dollars or imprisonment for not more than six months, or both. The employment of any minor in violation of any provision of said sections, after the person employing such minor has been notified thereof in writing by any authorized inspector or supervisor of attendance, shall constitute a separate offense for every day during which the employment continues. Violations of sections sixty to seventy-four inclusive, or of section one hundred and four shall be reported to the department of industrial accidents.

As an alternative of initiating criminal proceedings as set forth in the first paragraph hereof or in any other provision of this chapter pertaining to the employment of minors for which a criminal penalty is provided, the attorney general's office may issue a written warning or a civil citation. For each violation, a separate citation may be issued requiring payment of a civil penalty of not more than five thousand dollars for each violation be paid to the commonwealth within twenty-one days of the date of issuance of such citation. Notwithstanding the foregoing, if a lower maximum criminal fine amount is set forth in another provision of this chapter for violation of which a civil citation is issued, the civil penalty that may be assessed under said civil citation shall not exceed the maximum criminal fine amount authorized to be assessed under such provision.

Any person aggrieved by any citation issued pursuant to this section may appeal said citation by filing a notice of appeal with the attorney general within fifteen days of the receipt of the citation. Any such appellant shall be granted a hearing before a representative of the attorney general in accordance with chapter thirty A. The hearing officer may affirm, vacate, or modify any penalty provided for by the citation. Any person aggrieved by any decision of the hearing officer following such hearing may file an appeal in the superior court pursuant to the provisions of said chapter thirty A.

If any person shall fail to comply with the requirements set forth in any citation issued by the attorney general's office hereunder, or shall fail to pay any civil penalty imposed thereby within twenty-one days of the date of issuance of such citation or within thirty days following a decision of the hearing officer

if such citation has been appealed, excluding any time during which judicial review of the hearing officer's decision remains pending, the attorney general may apply for a criminal complaint for the violation of the appropriate section of this chapter.

Notwithstanding the provisions of the preceding paragraph, if any civil penalty imposed by citation issued by the attorney general's office remains unpaid beyond the time period specified for payment in said preceding paragraph, such penalty amount, together with interest thereon at the rate of eighteen percent per annum, shall be a lien upon the real estate and personal property of the person who has failed to pay such penalty. Such lien shall take effect by operation of law on the day immediately following the due date for payment of such penalty, and, unless dissolved by payment, shall as of said date be considered a tax due and owing to the commonwealth, which may be collected through the procedures provided for by chapter sixty-two C. In addition to the foregoing, no officer of any corporation which has failed to pay any such penalty may incorporate or serve as an officer in any corporation which did not have a legal existence as of the date said penalty became due and owing to the commonwealth.

SECTION 9. Section 79 of said chapter 149, as so appearing, is hereby amended by striking out the word "department" each time it appears and inserting in place thereof the words:- attorney general.

SECTION 10. Said section 79 of chapter 149, as so appearing, is hereby further amended by striking out in lines 10 and 11 the words "twenty-five nor more than two hundred" and inserting in place thereof the words:- five hundred nor more than five thousand.

SECTION 11. Said section 79 of chapter 149, as so appearing, is hereby further amended by inserting at the end thereof the following:- In addition to the foregoing, any employer who terminates or otherwise discriminates against any minor or his or her parent or legal guardian for exercising any right provided for under any provision of this chapter pertaining to the employment of minors shall be punished by a fine of not less than one thousand nor more than ten thousand dollars or by imprisonment for not more than six months, or both.

SECTION 12. Section 86 of said chapter 149, as so appearing, is hereby amended by striking out the first paragraph thereof and inserting in place thereof the following:-

No person shall employ any minor between the ages of fourteen and eighteen who is a full-time secondary school student unless said minor has obtained an employment permit from the superintendent of schools in the community in which said minor resides. In determining whether or not to grant such a minor an

factory, workshop, manufacturing, mechanical or mercantile establishment, health care facility, or in a public or private bowling alley, pool or billiard room, bootblack stand or establishment, barber or hairdressing shop, or in the construction or repair of buildings, or by an express or transportation company, except as provided for pupils in co-operative courses, unless his or her employer procures from said minor and keeps on file a copy of an employment permit issued to such minor under the provisions of section eighty-six. Such a minor may be employed during school hours only if said minor is enrolled in an education plan that includes an approved work experience or an approved co-operative program that requires work during school hours and has an approved early school release from a properly designated school official, or said minor is employed in the entertainment industry under the conditions set forth in section sixty.

Every employer of such minor shall keep a copy of the minor's employment permit accessible to any officer mentioned in section ninety-two and shall notify the office from which said permit was issued of the termination of employment of such minor within two days thereafter.

SECTION 16. Section 95A of said chapter 149, as so appearing, is hereby amended by striking out in line 4 thereof the word "certificate" and inserting in place thereof the words:- employment permit.

SECTION 17. Said chapter 149 is hereby amended by inserting after section 95A, as so appearing, the following section:-

Section 95B. All employers of minors shall provide for a place of employment free from recognized hazards that may cause death, serious physical injury, disease or illness to his or her employees. In addition, no producer, manufacturer, or dealer shall knowingly ship, receive, have for sale or sell any goods or services produced or processed using oppressive child labor. For the purposes of this section, oppressive child labor shall mean any repeated and intentional violation of the child labor laws or, based upon cost, general information, or other indicia, would cause a reasonable person to believe that illegal child labor may have been utilized in any manufacturing process used to produce goods.

SECTION 18. Section 97 of said chapter 149, as so appearing, is hereby amended by striking out said section and inserting in its place the following:-

Section 97. Whoever employs a minor in violation of either section eighty-six, ninety-five or ninety-five B shall be punished by a fine of not more than one thousand dollars.

To the Honorable Senate and House of Representatives of The Commonwealth of Massachusetts
in General Court assembled.

The undersigned, citizens of respectfully
petition for the passage of the accompanying bill or resolve, and/or for legislation.

Petitioners are requested to sign names and addresses legibly.

Jos. Van
Robert M. Rozen
Fred E. Fracassi

A. H. G. G.
W. D. Boston
W. H. C. and W. H. C.

SUMMARY OF PROPOSED AMENDMENTS

SUMMARY OF PROPOSED AMENDMENTS TO THE MASSACHUSETTS CHILD LABOR LAWS

**Submitted by Attorney General Scott Harshbarger
December 4, 1996**

This summary describes the eighteen sections of the "Act Relative to the Child Labor Laws" submitted by the Attorney General to the General Court for consideration during the 1997 legislative session. The authority to enforce the child labor laws was transferred to the Massachusetts Attorney General's Office from the Department of Labor and Industries in September, 1993. In September, 1996, after enforcing the laws for three years, Attorney General Scott Harshbarger determined that they were in significant need of revision and updating. He therefore convened a task force to advise him in the process.

The Child Labor Task Force was composed of representatives from education, labor, business, public agencies and the state legislature. A detailed description of the process and rationales for the ultimate legislative proposal are contained within the Executive Report, available from the Attorney General's Office. The members of the Task Force reached consensus on most issues discussed; for those issues where differing views were expressed, the final decisions were made by the Office of the Attorney General after reviewing and weighing all opinions.

While some of the language in the legislation submitted by the Attorney General duplicates language in the current statutes, only the proposed changes have been noted in the summary below.

Section 1 clarifies the issue of whether or not occupations that are exempted from certain hours requirements are consequently exempted from all hours requirements. The statutes permit minor deviations from the requirements under very specific situations for transportation and telephone companies, seasonal employment and hotels. The proposal states that all other hours limitations would continue to apply. This section amends the existing Section 56 of Massachusetts General Laws (M.G.L.) Chapter 149.

Summary of Proposed Amendments to the Child Labor Laws

Submitted by Attorney General Scott Harshbarger

December 4, 1996

- Page 2 -

Section 2 proposes increasing the fines for certain types of illegal employment of minors from the current \$50-\$100 to \$500-\$5000. Parents or guardians who permit illegal employment of minors could be subject to a \$50-\$500 fine. The illegal employment practices specified in this section include violations of the maximum number of hours minors may work and the posting of work schedules. This section amends the existing Section 57 of M.G.L. Chapter 149.

Section 3 clarifies the issue of applicability of the child labor laws to volunteer work. The section permits minors to voluntarily perform supervised services for educational, charitable or other non-profit organization as long as the volunteer services are not provided during school hours. The hazardous occupations and hours restrictions, and all other requirements of the child labor laws, would apply to any other employers who engage volunteers. In addition, 13-year olds may volunteer in a hospital after school and before 5:30 p.m. This section amends the existing Section 60 of M.G.L. Chapter 149.

Section 4 proposes bringing the hours 14- and 15-year olds may work more into line with the federal laws by reducing the permitted time

from: 48 hours/week	to: 40 hours/week during non-school weeks
from: 48 hours/week	to: 18 hours/week during school weeks
from: 6 days/week	to: 5 days/week
from: not before 6:30 a.m.	to: not before 7 a.m.

These hours restrictions apply to all jobs which require work permits. All other hours requirements would remain as they are. This section amends the existing Section 65 of M.G.L. Chapter 149.

A full chart comparing the current Massachusetts requirements, the federal requirements, and the proposed requirements for hours is included at the end of this document.

Section 5 proposes extending the limit to night work for 16- and 17 year olds from 10 p.m. until 11 p.m. on nights not followed by a school day. Minors employed in educational vocational or cooperative health care programs would be permitted to work until 11 p.m. on school nights in these programs only.

Further, minors under the age of 18 would not be permitted to work after 8 p.m. at any workplace unless they work under direct and immediate adult supervision. This new section amends the existing Section 66 of M.G.L. Chapter 149.

Section 6 reduces the working hours for 16- and 17-year olds

from: 48 hours/week	to: 28 hours/week during school weeks
from: 9 hours/day	to: 8 hours/day on non-school days (while school is in session)
from: 9 hours/day	to: 4 hours/day on school days
from: 6 days/week	to: 5 days/week during school weeks

All other hours requirements would remain as they are. When school is not in session, 16- and 17-year olds would continue to be permitted to work nine hours per day and 48 hours per week. In addition, employers would not be able to hire full-time secondary school students of any age to work more hours than those allowed for 16- and 17-year olds without having first obtained written consent from both the student and the student's parent or legal guardian. This section amends the existing Section 67 of M.G.L. Chapter 149.

Section 7 authorizes the Attorney General to conduct community outreach and education. It further authorizes the Attorney General to publish and disseminate the names and addresses of employers found to have violated any provisions of the child labor laws. This section extends the authority in the existing Section 74 of M.G.L. Chapter 149.

Section 8 increases the fines for violations of existing Sections 60-74, which cover hazardous occupations, restrictions of hours of work, employment of minors under the age of 14 in the street trades, and posting of work schedules for minors. The fine structure would be amended as follows:

Summary of Proposed Amendments to the Child Labor Laws

Submitted by Attorney General Scott Harshbarger

December 4, 1996

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First offense: Current fine is \$10-\$50, no more than one month imprisonment, or both.

Proposed fine is \$500-\$2,000, no more than two months imprisonment, or both

Subsequent offense: Current fine is \$50-\$200, no more than two months imprisonment, or both.

Proposed fine is \$2,000-\$10,000, no more than six months imprisonment, or both.

The employment of a minor in violation of Sections 60-74, after the employer has been notified in writing, shall constitute a separate offense for every day during which the employment continues. Violators of Sections 60-74 will be reported to the Department of Industrial Accidents.

Further, this section provides an alternative enforcement structure authorizing the Office of the Attorney General to issue a written warning or a civil citation requiring payment of up to \$5,000 for each violation. An appeal process to civil citations and penalties is outlined. Any fines determined to be due and not paid within the specified period of time would become a tax on the property of the person who has failed to pay. The Attorney General would reserve the right to determine which cases to handle through the criminal process and which to handle through the civil process.

This section amends the existing Section 78 of M.G.L. Chapter 149.

Section 9 proposes replacing the word "department" with the words "attorney general" wherever it appears in the current Section 79. Section 79, as it exists, imposes penalties for employers who hinder or delay inspectors of the Department of Labor and Industries (now defunct) in the performance of their duties, which include entering and inspecting workplaces, and reviewing information required for enforcement of the rules and regulations adopted under M.G.L. Chapter 149.

Summary of Proposed Amendments to the Child Labor Laws
Submitted by Attorney General Scott Harshbarger
December 4, 1996
- Page 5 -

Section 10 would increase the fine for violations of the above mentioned Section 79 from \$25-\$200 to \$500-\$5,000.

Section 11 would impose penalties against employers who terminate or otherwise discriminate against any minor or the parent or legal guardian of such minor for exercising any right provided for under the Commonwealth's child labor laws. The penalties would include fines of \$1,000-\$10,000, imprisonment for no more than six months, or both. This section extends the authority in the existing Section 79 of M.G.L. Chapter 149.

Section 12 extends the current requirement for work permits for 14- and 15-year olds to all full-time secondary school students between the ages of 14 and 18. (Note that the proposed section 15 eliminates the current requirement for educational certificates for 16- and 17-year olds.)

The section authorizes the superintendent of schools who issued the permit to revoke such permit upon finding that the welfare of the minor is no longer being served by his or her employment. Any person who employs a full-time secondary school student between the ages of 14 and 18 must keep on file the employment permit and make it accessible to representatives of the Attorney General.

Representatives of publicly funded summer jobs programs may apply to the Attorney General for a waiver from the full permitting process.

A separate permitting process is set forth for minors who are no longer full-time secondary school students. Such students would be required to apply to the superintendent of schools for written certification of their non-student status. The certification would include the name and address of the employer and the duties to be performed by the minor. All other restrictions would still apply to non-student workers.

All of the proposals listed under Section 12 would amend the existing Section 86 of M.G.L. Chapter 149.

Summary of Proposed Amendments to the Child Labor Laws
Submitted by Attorney General Scott Harshbarger
December 4, 1996
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Section 13 would amend the existing Section 87 of M.G.L. Chapter 149 by requiring that minors between the ages of 14 and 18 obtain an application for an employment permit. The application must be signed by the prospective employer, who must list his or her name and address, and the intended duties of the student. The application must then be signed by a parent or legal guardian of the student prior to being presented to the superintendent of schools. The existing process requires that the prospective employer sign a promise of employment card that is then returned to the superintendent of schools in order for a 14- or 15-year old to qualify for an employment permit. Currently, the signature of a parent or legal guardian is not required prior to the issuance of a permit.

Section 14 would further amend the existing Section 87 of M.G.L. Chapter 149 by eliminating the requirement for a signature from a physician for 14- and 15-year olds to obtain employment permits.

Section 15 would eliminate the requirement for educational certificates for 16- and 17- year olds to work. The existing requirement would be replaced by the requirement under the proposed Section 12 for employment permits.

This section adds two types of workplaces to the list of those which require employment permits; these are health care facilities and hair dressing shops. A 16- or 17-year old minor would be permitted to work during school hours only if he or she is enrolled in an education plan that includes an approved work experience or an approved cooperative program that requires work during school hours and has an approved early school release from a properly designated school official.

This section amends the existing Section 95 of M.G.L. Chapter 149.

Section 16 would amend the existing Section 95A of M.G.L. Chapter 149 by replacing the word "certificate" and replacing it with the words "employment permit." This section allows 16- and 17-year old minors to forgo the permitting process if they are enrolled in a cooperative work-study program.

Summary of Proposed Amendments to the Child Labor Laws
Submitted by Attorney General Scott Harshbarger
December 4, 1996
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Section 17 would extend the authority in the existing Section 95 by requiring a broad responsibility for employers to maintain their workplaces free from recognized hazards that may cause death, serious injury or illness. This clause would protect minors where no specific standard or restriction exists but where workplace hazards may cause injury.

The section would also prohibit any producer, manufacturer, or dealer from knowingly shipping, receiving, having for sale or selling any goods or services produced or processed using oppressive child labor.

Section 18 would amend the existing Section 97 of M.G.L. Chapter 149 by increasing the fines for violations of the permitting requirements from not more than \$100 to not more than \$1,000.

Summary of Proposed Amendments to the Child Labor Laws

Submitted by Attorney General Scott Harshbarger

December 4, 1996

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The following table represents a comparison of the current federal law, the current Massachusetts law, and the proposed legislation governing the hours 14- and 15-year olds are permitted to work.

FEDERAL	MASSACHUSETTS	PROPOSED
* between 7 am and 7 pm	6:30 am to 7 pm	7 am to 7 pm
* between 7 am and 9 pm (June 1-Labor Day)	6:30 am to 9 pm (July 1-Labor Day)	7 am to 7 pm (July 1-Labor Day)
* 3 hours/day (school days)	8 hours/day (school days)	3 hours/day (school days)
* 8 hours (non-school days)	8 hours (non-school days)	8 hours (non-school days)
* 18 hours/week (school weeks)	48 hours/week (school weeks)	18 hours/week (school weeks)
* 40 hours/week (non-school weeks)	48 hours/week (non-school weeks)	40 hours/week (non-school weeks)
* no restriction	6 days/week	5 days/week

Summary of Proposed Amendments to the Child Labor Laws

Submitted by Attorney General Scott Harshbarger

December 4, 1996

- Page 9 -

The following table represents a comparison of the current federal law, the current Massachusetts law and the proposed legislation governing the hours 16- and 17-year olds are permitted to work.

FEDERAL	MASSACHUSETTS	PROPOSED
* no restrictions	6 am to 10 pm (on nights followed by a school day)	6 am to 10 pm+ (on nights followed by a school day)
* no restrictions	6 am to 10 pm* (on nights not followed by a school day)	6 am to 11 pm* (on nights not followed by a school day)
* no restrictions	9 hours/day (school days)	4 hours/day (school days)
* no restrictions	9 hours/day (on non-school days while school is in session)	8 hours/day
* no restrictions	9 hours/day (while school is not in session)	9 hours/day
* no restrictions	48 hours/week (while school is in session)	28 hours/week
* no restrictions	48 hours/week (while school is not in session)	48 hours/week
* no restrictions	6 days/week	6 days/week

- + Minors employed in educational vocational or cooperative health care programs may work until 11 pm on school nights.
* Minors employed in restaurants and racetracks are permitted to work until midnight on nights not followed by a school day.

CHILD LABOR TASK FORCE MEMBERS AND TECHNICAL ADVISORS

OFFICE OF THE MASSACHUSETTS ATTORNEY GENERAL CHILD LABOR TASK FORCE

Members and Technical Advisors

Paul Amaral
Greater New Bedford Regional Vocational
Technical High School

Kathleen Baker
Chicopee School-To-Work

Rev. Edward F. Boyle, S.J.
Executive Secretary-Labor Guild
Archdiocese of Boston
Boston College High School

Gerard E. Burke
President & C.E.O.
Hillcrest Educational Centers

Mary Ellen Channing
Chicopee School-To-Work

Deborah Comfort
Department of Education

David Cronin, Executive Director
Massachusetts Association of Vocational Administrators

Dr. Letitia Davis, Director
Occupational Health Statistics
Massachusetts Department of Public Health

Sally L. Dias, Ed.D.
Watertown School Superintendent
Watertown Public Schools

John Gatti, Legislative Chairman
Massachusetts Organization of State Engineers & Scientists

Brian Houghton
Massachusetts Food Association

Jon Hurst, President
Retailers Association of Massachusetts

Kathy Kelley, Director
State Federation of Teachers
Massachusetts AFL-CIO

State Representative Robert Koczera
House Chairman
Joint Commerce & Labor Committee

Tracey Lewis
Joint Committee on Commerce and Labor

Frank Mooney
Department of Labor and Workforce Development
Division of Apprentice Training

Arthur Moriarty, President
Massachusetts Safety Council

Kathryn M. Murphy, Esq.
Murphy, Hesse, Toomey & Lehane

Peter Negroni
Springfield School Superintendent
Springfield Public Schools

John Niles
Massachusetts Office of School-To-Work

Roberta Schafer
State Board of Education
Worcester Municipal Research Bureau

State Senator Robert Travaglini
Senate Chairman
Joint Commerce & Labor Committee

William Vaughn, Vice President
Stop & Shop



The Stop & Shop Supermarket Company

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WILLIAM M. VAUGHN, III
SENIOR VICE PRESIDENT
SUPPORT SERVICES
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November 22, 1996

Ms. Joan N. Parker
Director of Safety
Office of the Attorney General
200 Portland Street
Boston, Massachusetts 02114

RE: Child Labor Task Force - Proposed Legislation

Dear Joan:

I was pleased to have been asked to join the Child Labor Task Force. The Stop & Shop Supermarket Company applauds your efforts to review current law to ensure the safety and welfare of minors. Stop & Shop operates 193 stores, and we employ approximately 38,000 people in the Northeast. We currently employ in Massachusetts approximately 1,800 people between the ages of sixteen and eighteen. Therefore, we share your interest in achieving reasonable solutions to issues of mutual concern.

With respect to the proposed legislation, Stop & Shop agrees with and accepts many of the contemplated changes; however, several revisions are unacceptable. Accordingly, Stop & Shop submits the following comments for your review and incorporation into the final proposal:

Section 57: The proposed mandatory minimum fine is not appropriate in this regulatory plan. A fine of not less than \$500 nor more than \$5,000 would exact much too harsh a penalty for inadvertent and insignificant infractions. Furthermore, a maximum of \$5,000 is excessive in light of the current maximum of \$100. A rational compromise is to have a fine of up to \$1,000, which would provide the Attorney General with the appropriate enforcement discretion.

Section 66: Stop & Shop stores are operated 24 hours a day for public convenience. We maintain that we are the functional equivalent of restaurants in many respects, and that we compete with restaurants for the same food consumers. Stop & Shop stores are well lit, safe and secure. Moreover our workplaces are smoke-free, do not serve alcohol and do not permit gambling ...compelling reasons to provide Stop & Shop and other supermarkets with the same relief granted to restaurants and now proposed for racetracks.

Section 67: Stop & Shop's principal trade area includes Massachusetts, Connecticut, and Rhode Island. The hours and days of work provisions under consideration for 16 to 18 year olds will impose an undue burden on Stop & Shop. The availability of labor is a problem, particularly acute in Massachusetts. Stop & Shop is not aware of any facts which would warrant the significant changes in this section which severely limit the hours of employment of a crucial segment of our labor population. Connecticut and Rhode Island laws parallel the present Massachusetts law in allowing minors of the ages of 16 to 18 to work up to 6 days and 48 hours a week when school is in session. Stop & Shop agrees with the revision from 9 to 8 hours of work during non-school days. However, we do not agree with the additional limitation of 4 hours per day during the school week. This 4-hour limit is problematic from a collective bargaining perspective. Many of our union employees are required to receive a 4-hour minimum work day. The 4 -hour maximum proposed in the draft legislation would result in many technical violations as the result of the routine work schedule of our employees. In addition, a 4-hour maximum unfairly limits the work opportunities of students with shorter school schedules, including those involved in work-study programs and high school seniors who have completed most of the courses required for graduation. Also, as drafted, we would be limited to 4 hours on a Friday even though school is not in session on the next day. Finally, the proposed legislation may lead minors who need the hours to pursue multiple jobs. The intended unwarranted and adverse changes are inconsistent with the current law in Massachusetts, Connecticut and Rhode Island. Change for the sake of change is not a policy to which we subscribe.

Section 78: Again, we believe that a mandatory minimum which includes a term of imprisonment is neither appropriate nor practical where there are insignificant and unintentional violations. Indeed, we submit that the planned civil citation is the proper course of action for all cases involving a first violation or acts of non-willful misconduct.

The civil citation alternative is a welcome addition to the prevailing enforcement methods. The recommended changes are to increase the time for filing an appeal from 7 to 15 days; and to clarify the prohibition for officers to serve as an officer in a new corporation to "until such time as the penalty is paid.". In addition, the 18% interest rate is excessive; it should be no more than 12%.

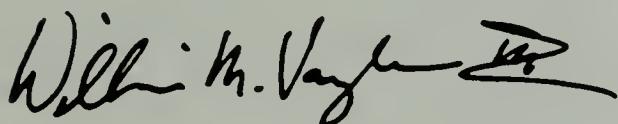
Section 79: Please see our comments stated above regarding mandatory minimum fines and imprisonment.

Section 86: The requirement that employers obtain annual permits for minors is redundant, and it unnecessarily increases the burden on employers, employees and school administrators. No other jurisdiction in which we operate has a similar requirement. Furthermore, please clarify that the requirement regarding the list of the ages of minors can be met with a record of each minor's date of birth. We submit that the obligation to include a description of the duties of the minor and the maximum daily and weekly hours to be employed on the permit application should be deleted. Employers should simply be required to comply with existing law; the additional information is unnecessary.

Section 95B: This section should address "known" hazards at the workplace. Likewise, this section should be modified to prohibit a producer, manufacturer, or dealer from "knowingly" shipping, receiving or having for sale any goods or services produced or processed using oppressive child labor. As a result of traditional commercial practices, many purchases are made through distributors, brokers, etc., and the information concerning the source or the labor involved would not be readily available to Stop & Shop or other retailers.

Thank you for the opportunity to provide you with our comments. We believe that together we can achieve a workable program to regulate the employment of minors in the Commonwealth. Please call me if you have any questions or comments.

Very truly yours,



William M. Vaughn, III

cc: The Honorable Scott Harshbarger, Attorney General
Helen Moreschi, Assistant Attorney General
Peter M. Phillips, Senior Vice President and General Counsel (Stop & Shop)
Brian Houghton, Massachusetts Food Association
Jon Hurst, Retailers Association of Massachusetts

